

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JEROME ADRIAN DAVID,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-20-1250-SLP
	)	
STATE OF OKLAHOMA,	)	
	)	
Respondent.	)	

**ORDER**

Before the Court is the Report and Recommendation (Report) of United States Magistrate Judge Gary M. Purcell entered December 14, 2020 [Doc. No. 7]. Upon initial review, Judge Purcell recommends that the action be dismissed without prejudice based on the pendency of related state court proceedings and pursuant to the *Younger* abstention doctrine.<sup>1</sup>

Judge Purcell advised Petitioner of his right to object to the Report and directed any objections be filed on or before January 4, 2021. Judge Purcell further advised Petitioner that any failure to object would waive Petitioner's right to appellate review of the factual and legal issues addressed in the Report.

Petitioner has neither filed an objection nor sought an extension of time in which to do so. Therefore, the Court finds that Petitioner has waived further review of all issues addressed in the Report. *See Cassanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).


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<sup>1</sup> *Younger v. Harris*, 401 U.S. 37 (1971).

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 7] is ADOPTED in its entirety and this action is DISMISSED without prejudice. A separate judgment shall be entered.

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, the Court must issue or deny a certificate of appealability (COA) when it enters a final adverse order to a petitioner. A COA may issue only if Petitioner “has made a substantial showing of the denial of a constitutional right.” *See* 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see also Slack v. McDaniel*, 529 U.S. 473, 484 (2000). “When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack*, 529 U.S. at 484. Upon consideration, the Court finds Petitioner has not made the requisite showing. Therefore, a COA is denied. This denial shall be included in the judgment.

IT IS SO ORDERED this 19<sup>th</sup> day of January, 2021.

  
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SCOTT L. PALK  
UNITED STATES DISTRICT JUDGE